HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.25887 OF 2007

DATE: 06-12-2007

Between :

M/s. Rahul Automobiles, Opp. Begumpet Airport,
Hydearbad, rep. By its General Manager,
Sri P. Bhaktinadha Reddy … Petitioner

And

1. The Assistant Commissioner (CT) (LTU),
   Begumpet Division, Hyderabad., and
   Two others. ... Respondents

HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.25887 OF 2007

ORDER : (Per Mrs. Justice T.Meena Kumari)

This writ petition is filed seeking a declaration that the order of the 3rd respondent dated 28.9.2007 in rejecting stay application filed by the petitioner for recovery of the disputed tax of Rs.6,56,722/- for the assessment year 2001-02 under the A.P. General Sales Tax Act, 1957 as arbitrary and illegal.

The petitioner is an authorized dealer under the A.P. General Sales Tax Act, 1957 (for short, 'the APGST Act') and is an assessee on the rolls of the 1st respondent – Assistant Commissioner (CT) (LTU), Begumpet Division – Hyderabad. For the assessment year 2001-02, the petitioner's assessment was completed by the 1st respondent by its proceedings dated 29.8.2003 duly exempting a turnover of Rs.82,09,030/-. However, the 2nd respondent – Deputy Commissioner (CT), Begumpet Division, Hyderabad - proposed revision of the assessment order passed by the 1st respondent exercising power under Section 20 (2) of the APGST Act and issued a show-cause notice dated 28.7.2006. Though detailed written objections dated 19.9.2006 have been filed, the 2nd respondent confirmed the revision through his proceedings dated 20.7.2007 withdrawing the exemption on a turn over of Rs.82,09,030/-. Accordingly, the 1st respondent passed the consequential orders

dated 31.7.2007 which resulted in an additional demand of Rs.5,96,118/-. Challenging the revision order passed by the 2nd respondent, the petitioner filed an appeal before the Sales Tax Appellate Tribunal. However, the application seeking stay of the recovery of the disputed tax pending Appeal was rejected vide impugned order dated 28.9.2007. Hence, this writ petition.

Having heard the learned Counsel for the petitioner as well as the learned Government Pleader for Commercial Taxes appearing for the respondents and in view of the fact that the appeal is pending before the Sales Tax Appellate Tribunal, we are of the opinion that the interests of justice would be met if stay is granted pending Appeal subject to certain conditions.

Accordingly, the Writ Petition is disposed of granting stay of recovery of the disputed tax pending the Appeal before the Sales Tax Appellate Tribunal subject to the petitioner depositing half of the disputed tax, after giving credit to the amounts already paid, within a period of four weeks from today. However, in the event of failure to deposit half of the disputed tax within the time stipulated above, the impugned order would stand operative.

It is made clear that the amount deposited in compliance with this order shall be without prejudice to the rights of the petitioner in the Appeal.

With the above observation, the Writ Petition is disposed of. No costs.

T.MEENA KUMARI, J.

G. ROHINI, J

Dt.06-12-2007
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